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February 23, 2006

Hon. Kevin J. Martin  
Chair  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: WT Docket No. 04-356  
WT Docket No. 02-353

Dear Mr. Martin:

I represent The EMR Policy Institute. On November 18, 2004 The Institute filed a timely comment in writing in the above combined proceeding requesting the FCC to initiate biological research into the proposed rule's impact on human health. The EMR Policy Institute comment pointed out that the FCC has a statutory duty to prepare an EIS (or a supplemental EIS) under NEPA:

"1. FCC must prepare an EIS for the proposed new rule. The EIS must address frequencies that are resonant in human cells; the effect of modulation of those frequencies on human cells; the impact of different lengths of time of exposure; cumulative effects of repeated or continuous exposure; the individual variation in susceptibility to the effects of RF radiation exposure of population subgroups; and the impact of different levels of radiated power (ERP) of those modulated frequencies.

"2. If FCC contends that the Environmental Assessment and FONSI recognized in Cellular Phone Taskforce applies to the instant proposed rule, FCC is obligated to prepare a supplemental EIS due to the change in circumstances (i.e. the proposed addition of several new bands) and the significant new information, found in scientific studies discussed below, relevant to environmental concerns. 40 C.F.R. § 1502.9(c)(1)."

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The FCC's notice of proposed Rulemaking stated that:

"All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding." (p 48)

We note the Commission's recent announcement of January 31, 2006, scheduling an auction [AU Docket No. 06-30] of AWS licenses in the 1710-1755 MHz and 2110-2115 MHz bands to commence on June 29, 2006.

Would you please advise whether The EMR Policy Institute's comment has been considered by the Commission and the results of such consideration? Please also advise whether the Commission has prepared an EIS or a supplemental EIS for the proposed service rules. If so, please supply a copy of same.

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in black ink, reading "Whitney North Seymour, Jr." with a stylized flourish at the end.

Whitney North Seymour, Jr.

cc: Secretary, FCC  
Room TW-B204